

AGENDA MEMO

CITY COUNCIL MEETING DATE: MAY 20, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-33775 - APPLICANT/OWNER: MICHAEL AND CAMILLA GOODWIN

**** CONDITIONS ****

Staff recommends DENIAL. The Planning Commission (7-0 vote) recommends APPROVAL, subject to:

Planning and Development

1. Approval of and conformance to the Conditions of Approval for Special Use Permit (SUP-33981) shall be required, if approved.
2. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow a zero-foot side and rear yard setback where three feet is required for an existing Accessory Structure (Class I) on 0.28 acres at 1317 South 6th Street. In addition to this request the applicant has also submitted a request for a Special Use Permit (SUP-33981) for an existing Accessory Structure (Class I) at the subject property. The existing Accessory Structure (Class I) on the subject property and is architecturally consistent with the main dwelling unit; however, the Department of Building and Safety has no building permits on file to verify that this structure was legally built on the subject property nor does the Planning and Development Department have any record of a Variance to allow the existing zero-foot setback condition at the subject property. The requested Variance represents a 100% deviation from the requirements of Title 19.08.040 indicating the existing location of the Accessory Structure (Class I) is not appropriate for the subject property; therefore, staff recommends denial of this request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc. and Property Sales</i>	
02/09/09	A Code Enforcement complaint (#74384) was issued for failure to obtain permits for remodeling, an accessory structure encroaching on the required side and rear setbacks and a garage which may have been constructed without a permit. The case is still open.
02/11/09	A deed was recorded for change of ownership.
04/23/09	The Planning Commission recommended approval of companion item SUP-33981 concurrently with this application. The Planning Commission voted 7-0 to recommend APPROVAL (PC Agenda Item #28/dc).
<i>Related Building Permits/Business Licenses</i>	
c. 1951	A single-family residence was constructed at 1317 South 6 th Street.
04/28/64	A building permit (#25227) was issued for interior remodeling at 1317 South 6 th Street.
07/08/70	A building permit (#54058) was issued to convert an existing two-car carport at the southwest corner of the existing single-family residence into habitable living space at 1317 South 6 th Street.
02/11/09	A building permit (#133371) was issued for interior drywall and electrical work at 1317 South 6 th Street. The permit is currently active.
<i>Pre-Application Meeting</i>	
02/24/09	A pre-application meeting was held with the applicant where the submittal requirements of a Variance were discussed.
03/25/09	A follow-up pre-application meeting was held with the applicant and the Department of Building and Safety where the steps necessary to obtain proper

	building permits for the existing Accessory Structure (Class I) were discussed.
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<i>Neighborhood Meeting</i>
A neighborhood meeting was not held, nor was one required.

Field Check	
04/19/09	A field check was conducted by staff at the subject property. The property was observed to be a well preserved mid-century home, in clean condition. The Accessory Structure (Class I) was noted at the southeast corner of the property, constructed on both the south and east property lines.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Gross Acres	0.28

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
North	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
South	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
East	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)
West	Single-Family Residence	L (Low Density Residential)	R-1 (Single Family Residential)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan			
John S. Park Historic Neighborhood Plan	X		Y*
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts			
A-O (Airport Overlay) District (200 Feet)	X		Y**
Trails		X	N/A
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

* The subject property lies within the John S. Park Historic Neighborhood Planning area, which was adopted by the City Council on 12/19/01. The purpose of the plan was to document resident's opinions on how they want their neighborhood to look and feel in the future.

** The subject property is located within the McCarran International Airport Overlay Map within the 200-foot height limitation contour. The subject building does not extend beyond this limitation.

DEVELOPMENT STANDARDS

Pursuant to Title 19.08.040, the following standards apply for Accessory Structures:

Standard	Required/Allowed	Provided	Compliance
Min. Lot Size	N/A	12,364 SF	N/A
Min. Lot Width	N/A	95 Feet	N/A
Min. Setbacks <ul style="list-style-type: none"> • Front • Side • Rear 	N/A 3 Feet 3 Feet	Zero Feet Zero Feet	N* N*
Min. Distance Between Buildings	6 Feet	11 Feet	Y
Max. Lot Coverage	50% of the rear yard area	11% of the rear yard area	Y**
Max. Building Square Footage	50% of the main dwelling unit	19% of the main dwelling/ 459.5 SF	Y***
Max. Building Height	Not to exceed two stories (35 feet max) or the height of the main building, whichever is less	9 Feet	Y****

* The applicant has submitted this Variance to allow a zero-foot side and rear yard setback where three feet is required.

** The rear yard area of the subject property is approximately 4,275 square feet.

*** The square-footage of the main dwelling is 2,463 square feet.

**** The applicant has indicated on the site plan that the building height for both the main dwelling unit and the Accessory Structure are both nine feet.

ANALYSIS

This is a request for a Variance to allow a zero-foot side and rear yard setback where three feet is required for an existing Accessory Structure (Class I) on 0.28 acres at 1317 South 6th Street. In addition to this request the applicant has also submitted a request for a Special Use Permit (SUP-33981) for an existing Accessory Structure (Class I) at the subject property. A Code Enforcement complaint (#74384) was received 02/09/09 on the subject property stating that the existing Accessory Structure (Class I) may have been constructed without permits. The existing Accessory Structure (Class I) is architecturally consistent and constructed of similar building materials to the main dwelling unit; however, the Department of Building and Safety has no building permits on file to verify that this structure was legally built on the subject property nor does the Planning and Development Department have any record of a Variance to allow the existing zero-foot setback condition at the subject property.

The subject property was purchased by the current property owner 02/11/09. No evidence exists to indicate this structure was legally built on the subject property. While the existing Accessory Structure (Class I) has been on the subject property for several years, building permit requirements and setback codes have been in existence prior to the initial development of the subject property. The requested Variance represents a 100% deviation from the requirements of Title 19.08.040 indicating the existing location of the Accessory Structure (Class I) is not appropriate for the subject property; therefore, staff recommends denial of this request.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by not performing due diligence to ensure the Accessory Structure (Class I) was permitted prior to purchasing the property. Alternatively, demolishing the existing building and replacing it with a legal, conforming structure meeting current International Building Code requirements would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site's physical characteristics, it is concluded that the applicant's hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

A petition and additional protests were submitted at the Planning Commission Meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 19

ASSEMBLY DISTRICT 9

SENATE DISTRICT 10

NOTICES MAILED 272 by City Clerk

APPROVALS 0

PROTESTS 1